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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,071	01/08/2002	Marc Michael Groz	MMG-002U	4941

7590

10/20/2005

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STAMFORD, CT 06906

EXAMINER

HOEL, MATTHEW D

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/043,071	Applicant(s) GROZ, MARC MICHAEL	
	Examiner Matthew D. Hoel	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. This action supercedes the non-final office action of Oct. 3rd, 2005. The applicant's amendments, by introducing Claims 42 to 49, significantly changed the scope of the claimed invention, and so necessitated a new prior art search and evaluation of the claims on their merits. This is a final rejection.
2. Applicant's arguments, see Remarks, filed Apr. 21st, 2005, with respect to the rejection(s) of Claims 6, 8, 10, 11, 13 to 19, and 33 to 41 under 35 U.S.C. 102(~~2~~) as being anticipated by Jenkins (2003/0104857), and Claims 7, 9, and 12 under 35 U.S.C. 103(a) as being obvious in view of Jenkins have been fully considered and are persuasive. Therefore, these rejections have been withdrawn, but this is moot, as these claims have been cancelled. The applicant has demonstrated that Claims 42 to 49 are fully supported by the provisional application 60/260,547, giving a priority date of Jan. 8th, 2001 for these claims. However, upon further consideration, a new ground(s) of rejection is made in view of Nilssen ('275), Grippo ('032), and Ridge ("Bonus Bonds"). Please see the 35 U.S.C. 103 rejections below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
4. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 42 to 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilssen (U.S. patent 5,082,275 A) in view of Grippo, et al. (U.S. patent 6,017,032 A) and Ridge, et al. ("Innovations in Savings Schemes: The Bonus Bonds Trust in New Zealand," Financial Services Review, 7(2), Pages 78 to 81).

6. As to Claim 42: Nilssen in '275 teaches all of the elements of Claim 42, but lacks specificity as to a portion of the financial consideration being allocated to a prize pool and the cash value of the assets being provided at the end of the time period to the owners of the tokens. Nilssen in '275 teaches offering to sell tokens to a plurality of players, each of the tokens having a price (Col. 1, Lines 50 to 53). Each of the tokens has a designated residual value. A residual value is a number, preferably a positive number less than one, used to indicate a portion of a player's financial consideration to the purchase of assets rather than to game play. In '275, at least a part of the money received from the ticket-issuing and money-receiving entity is invested in stock, mutual funds, bonds, etc. (Col. 3, Lines 8 to 13), so each token has a residual value based on the percentage of its purchase price dedicated to buying assets. In '275 financial consideration is received from the players, the financial consideration being equal to the price of each token times the number of tokens purchased (value received indicated on ticket, Col. 1, Lines 50 to 53). In '275, a portion of the tokens is designated as winning outcomes (Col. 1, Line 61 to Col. 2, Line 3). A prize pool is awarded to the owners of the winning tokens (Col. 1, Line 61 to Col. 2, Line 3). '275 teaches allocating a portion of the financial consideration to purchase assets (Col. 3, Lines 8 to 13). These assets

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generate dividends and/or interest so it is inherent that their value over a period of time will be greater than the initial value of the financial consideration used to buy them, minus allocations for prizes, expenses, and so forth. In '275, the value of the assets associated with each token is based on the price of each token bought, and the percentage of that token's financial consideration used to buy the assets (Col. 3, Lines 48 to 56). Grippo, however in '032 teaches allocating a portion of the financial consideration received in a state-run lottery to a prize pool (this is what makes it a pari-mutuel lottery; Col. 4, Lines 30 to 56). It would be obvious to one of ordinary skill in the art to apply the allocation of a prize pool of '032 to the game of '275. The lottery game of '032 can be run by a state (Col. 4, Lines 30 to 34). The lottery game of '275 can have receipts of billions of dollars (Abstract), which only a state lottery would be large enough to handle. The receipts of '032 are allocated into different pools, such as jackpot pools for different denominational levels (Abstract), and pools allocated for overhead, profit, and public agency funding (Col. 4, Lines 30 to 34), so it is only natural that a pool could be allocated to buy investments as described in '275 (Col. 3, Lines 48 to 56). The investment of lottery funds in interest- or dividend-paying assets and pari-mutuel allocation of revenues to prizes are both widely known to those in the art of state-run lotteries. The advantage of this combination would be to stimulate players' interest in the game by basing the prize pool on the amount wagered, while using the revenue-generating assets to provide a more stable stream of revenue for the public agencies funded by the lottery, instead of funding them with the lottery receipts, which can vary widely from week to week. Ridge, however, in "Bonus Bonds," teaches the cash value

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of the assets being provided at the end of the time period to the owners of the tokens (Page 74, Para. 5, bonds redeemed). It would be obvious to one of ordinary skill in the art to apply the token redemption of "Bonus Bonds" to the combination of '275 and '032. Bonus Bonds started out as a state-run lottery (Page 75, Para. 2), like the lottery of '032, and is still quasi-public today. Bonus Bonds is a public game that invests in assets that pay a return and pay out the occasional random prize (Table B, Pages 75 and 76; Table 2, Page 78) like '275 (Col. 1, Line 61 to Col. 2, Line 3; Col. 3, Lines 8 to 13). The lottery ticket of "Bonus Bonds" is a bond, which is a financial instrument, like the lottery ticket of '275, which is tradable as a substitute currency (Col. 5, Lines 33 to 52). The advantage of this combination would be to further stimulate interest in the game by allowing players to redeem their lottery tickets ("bonds") for full face value upon maturity, allowing players to use the game as an investment vehicle for retirement, education, etc.

7. As to Claim 43: In '275, the game is a lottery (Abstract).

8. As to Claim 44: In '275, the tokens are paper lottery tickets (Col. 1, Lines 50 to 53).

9. As to Claim 45: In '275, the residual value invested is a portion of the financial consideration, which could be 50% (Col. 3, Lines 8 to 13).

10. As to Claim 46: The game of '032 can be a state-run lottery (Col. 4, Lines 30 to 42). The investments of '275 can be mutual funds, stocks, or bonds (Col. 3, Lines 8 to 13).

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11. As to Claim 47: '275 in the Abstract teaches a 10% annual rate of return, which is greater than the rate of return on many conservative investments.

12. As to Claim 48: In '275, the residual value invested is a portion of the financial consideration, which could be less than or equal to 80% (Col. 3, Lines 8 to 13).

13. As to Claim 49: In "Bonus Bonds," the assets can be bank deposits (Table B, Page 76).

Citation of Pertinent Prior Art

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In U.S. patent 5,280,426 A, Edmonds teaches a computerized network for subscribing/purchasing into games of chance. In U.S. patent 6,024,640 A, Walker, et al. teach an off-line remote lottery system. In U.S. patent 6,110,042 A, Walker, et al. teach a system and method for future-value wagering. In U.S. patents 4,997,188 A; 5,083,782 A; 5,083,784 A; and 6,017,063 A; Nilssen teaches financial instruments and systems. In WIPO publication WO 91/20061, PCT/US91/00975, Nilssen teaches a financial services system.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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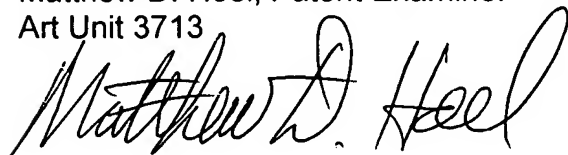
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M..

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew D. Hoel, Patent Examiner
Art Unit 3713



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